रजिस्ट्री सं० डी० 221 REGISTERED No. D. 221

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 2
PART II—Section 2
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 78] नई दिल्ली, शुक्रवार, दिसम्बर 21, 1973/अग्रहायण 30, 1895
No. 78] NEW DELHI, FRIDAY, DECEMBER 21, 1973/AGRAHAYANA 30, 1895

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 21st December, 1973:—

I

Bill No. XLII of 1973

A Bill further to amend the Indian Divorce Act, 1869.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Indian Divorce (Amendment) Act, 1973.

Insertion of new section 17B.

2. In the Indian Divorce Act, 1869, after section 17A, the following heading and section shall be inserted, namely:—

"IIIA. DISSOLUTION OF IRRETRIEVABLE MARRIAGES

Dissolution of marriages where there has been no presumption of cohabitation or restitution of conjugal rights.

17B. (1) Either party to a marriage, whether solemnised before or after the commencement of the Indian Divorce (Amendment) Act, 1973, may present a petition under this section for divorce to the District Court or to the High Court praying for the dissolution of the marriage between such parties on the ground—

(a) that there has been no resumption of cohabitation as between the parties to the marriage for a period of one year or upwards after the passing of a decree for judicial separation in a proceeding to which they were parties; or

(b) that there has been no restitution of conjugal rights as between the parties to the marriage for a period of one year or

upwards after the passing of a decree for restitution of conjugal rights in a proceeding to which they were parties.

(2) In case the court is satisfied on the evidence that the case of the petitioner has been proved, the court shall pronounce a decree declaring such marriage to be dissolved.

(3) Nothing in sections 10 to 17A, both inclusive, shall apply in relation to any petition under this section.".

STATEMENT OF OBJECTS AND REASONS

The Christian community is one of the enlightened communities of this country. Though reforms have been effected in the divorce laws of the community in practically all the countries having Christian population to bring them into harmony with the changed conditions, in India the community has been condemned to suffer with a highly antiquated law of divorce based upon an English Act of 1857. The antiquated nature of the Act has been the subject matter of adverse judicial comments.

This Bill seeks to make an absolutely minimum change in the Act to provide for dissolution of marriages which can be regarded as having broken down irretrievably. Similar provisions have already been made some years ago in the Hindu Marriage Act, 1955 and in the Special Marriage Act, 1954.

NEW DELHI; N. P. CHAUDHARI.

Dated 14-11-1973.

II

Bill No. XLI of 1973

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-fourth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Constitution (Amendment) Act, 1973. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In article 124 of the Constitution, in clause (*3*), after sub-clause (*c*), the following sub-clause shall be inserted, namely:— Amendment of article 124.

"(*d*) shall have a tenure of office for at least five years."

3. In article 217 of the Constitution, in clause (*2*), after sub-clause (*b*), the following sub-clause shall be inserted, namely:— Amendment of article 217.

"(*c*) shall have a tenure of office for at least five years.".

STATEMENT OF OBJECTS AND REASONS

The Law Commission in its Fourteenth report had recommended that appointments to the Supreme Court and the High Courts should be of persons who besides having the required qualification for such appointments should at least have a tenure of ten years. This was done so as to achieve and maintain a uniform interpretation of various enactments by the Judges. No one can dispute the advantage of this recommendation and it would go a long way in enforcing the rule of law. The Minister of State for law on 7th May, 1973, stated in the Rajya Sabha that the Government had decided to accept the aforesaid recommendation of the Law Commission and a minimum five years tenure has been fixed for appointments to the Supreme Court and the High Courts. It is, therefore, necessary to introduce the consequential amendments in the Constitution on these lines so that in future no proposal for appointments to the Supreme Court and the High Courts of persons who are not in a position to put in five years tenure should be received or considered.

Hence the Bill.

OM PRAKASH TYAGI.

B. N. BANERJEE.
Secretary-General

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1973